



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920DAL
Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Number: **202052050**
Release Date: 12/24/2020

UIL: 501.03-00

Date: May 7, 2020

Taxpayer ID Number:

Form:

Tax Period(s) ended:

Person to Contact:

Identification Number:

Telephone Number:

Fax Number:

CERTIFIED MAIL – Return Receipt Requested
LAST DAY FOR FILING A PETITION WITH THE TAXCOURT:

Dear :

This is a final determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(3), effective November 1, 20XX. Your determination letter dated August 30, 20XX is revoked.

Our adverse determination as to your exempt status was made for the following reasons:

You have not established that you are organized and operated exclusively for an exempt purpose or that you have been engaged primarily in activities that accomplish one or more exempt purposes within the meaning of IRC Section 501(c)(3).

As such, you failed to meet the requirements of IRC Section 501(c)(3) and Treasury Regulations Section 1.501(c)(3)-1(c), in that you have not established that you were operated exclusively for exempt purposes.

We previously provided you a report of examination explaining the proposed revocation of your tax-exempt status. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On , you signed Form 6018, *Consent to Proposed Action – Section 7428*, in which you agreed to the revocation of your tax exempt status as described under IRC Section 501(c)(3). This is a final determination letter with regards to your federal tax-exempt status under Section 501(a).

Contributions to your organization are no longer deductible under IRC Section 170.

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of IRC Section 7428 in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

U.S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005

U. S. District Court for the District of Columbia
333 Constitution Ave., NW
Washington, DC 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under IRC Section 7428.

We'll notify the appropriate state officials (as permitted by law) of our determination that you aren't an organization described in IRC Section 501(c)(3).

You may be eligible for help from the Taxpayer Advocate Service (TAS). TAS is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 1-877-777-4778.

Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

You can get any of the forms or publications mentioned in this letter by calling 800-TAX-FORM (800-829-3676) or visiting our website at www.irs.gov/forms-pubs.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter.

Enclosures:
Publication 892

Sincerely,



Maria D. Hooke
Director, EO Examinations



**Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations**

Date:
November 5, 2019
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact:

Employee ID:
Telephone:
Fax:
Manager's Contact Information:

Employee ID:
Telephone:
Response Due Date:

CERTIFIED MAIL – Return Receipt Requested

Dear :

Why you're receiving this letter

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(3).

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(3) for the periods above.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the

IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

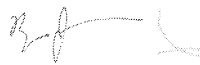
The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

For additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,



For Maria Hooke
Director, Exempt Organizations
Examinations

Enclosures:

Form 886-A
Form 6018
Form 4621-A
Pub 892
Pub 3498-A
Form 1023-EZ
Letter 5436

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended OCTOBER 31, 2017XX

Date of Notice: November 5, 20XX

ISSUE

Should the tax-exempt status of _____ (hereinafter known as the organization) under Internal Revenue Code (IRC) § 501(c)(3) be revoked effective November 1, 20XX because it is not organized exclusively for exempt purposes within the meaning of IRC § 501(c)(3)?

FACTS

_____ applied for tax-exempt status by filing the Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, on August 24, 20XX, and was granted tax-exempt status as a 501(c)(3) on August 30, 20XX, with an effective date of August 24, 20XX. A copy of these documents is being provided to the organization with this report.

The organization attested on Form 1023-EZ, part II, box 2 that they have the organizing document necessary for their organizational structure.

Section 501(c)(3) requires that an organizing document must limit their purposes to one or more exempt purposes within section 501(c)(3). The organization attested that their organizing document contains this limitation.

The organization attested that their organizing document does not expressly empower them to engage, otherwise than as an insubstantial part of their activities, in activities that in themselves are not in furtherance of one or more exempt purposes.

The organization attested that their organizing document contains the dissolution provision required under section 501(c)(3) or that they did not need an express dissolution provision in their organizing document because they rely on the operation of state law in the state in which they are formed for their dissolution provision. _____ is not a cy pres state.

The organization provided our office with "Registration Statement for Charitable Organizations" and a letter from _____ explaining the Certificate of Incorporation was filed with the State of _____. The Registration Statement for Charitable Organizations state the organization was formed on a stock basis, with 0 shares of par value stock and a value of \$.00 per share.

In the Information Document Request dated October 4, 20XX, our office asked the organization to provide articles of organization with an adequate purpose clause and a dissolution clause. Additionally, we advised the organization to either reorganize as a nonstock corporation or amend their articles to restrict the transfer of stock and prohibit payments of dividends. The organization failed to provide our office with their articles of organization.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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Per Form 990-EZ Schedule O, the organization's primary tax-exempt purpose is to promote teddy bear artists and raise funds for endangered species programs. The _____ is an annual _____. Participants pay a registration fee and other fees for optional excursions. The fees are paid directly to the organization. Participants can pay by either check or credit card.

During the annual event, artists set up tables to sell their artwork. Each artist creates one diorama according to the theme of the event. The artists determine the sales price. A _____ percentage of the sale is donated to _____. The amount of the donation is determined according to the date the artists' registration form is received by the organization. If the artist registers early, only 0% of their sales are donated. The amount is increased to 0% if they register up to _____ weeks before the invitational and 0% for artists who register within _____ weeks of the event.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended OCTOBER 31, 2017XX

LAW

Internal Revenue Code (IRC) §501(c)(3) of the Code provides that an organization organized and operated exclusively for charitable or educational purposes is exempt from Federal income tax, provided no part of its net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulations (Regulation) 1.501(c)(3)-1 In order to be exempt under §501(c)(3) the organization must be both organized and operated exclusively for one or more of the purposes specified in the section. (religious, charitable, scientific, testing for public safety, literary or educational).

Regulation §1.501(c)(3)-1(a)(1) of the regulations states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Regulation §1.501(c)(3)-1(b)(1)(i) An organization is organized exclusively for one or more exempt purposes only if its articles of organization (a) Limit the purposes of such organization to one or more exempt purposes; and (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Regulation 1.501(c)(3)-1(b)(4) An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders.

Revenue Ruling 76-152 refers to a nonprofit organization formed by artists which selects pieces to exhibit, exhibits the artwork, and sells the artwork of local artists. As its sole activity, the organization selects modern art works of local artists for exhibit at its gallery and for possible sale. The Internal Revenue Service determined the artists were directly benefited by the exhibition and sale of their art pieces, with the result that a major activity of the organization is serving the private interests of those artists whose works are displayed for sale. Consequently, the nonprofit organization was not operated exclusively for tax-exempt purposes and did not qualify for tax exemption under 501(c)(3).

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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ORGANIZATION'S POSITION

October 23, 20XX: TCO spoke with the organization's president, stated she misunderstood the requirements of Internal Revenue Code § 501(c)(3) when she initially filed Form 1023-EZ. stated she agrees with the revocation.

GOVERNMENT'S POSITION

The tax-exempt status of under Internal Revenue Code (IRC) § 501(c)(3) should be revoked effective November 1, 20XX as it is not organized or operated exclusively for exempt purposes within the meaning of IRC § 501(c)(3).

In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more tax-exempt purposes specified in IRC § 501(c)(3). If an organization fails to meet either the organizational test or the operational test, it is not exempt. The organization failed to establish that it was organized and operated exclusively for one or more tax-exempt purposes per IRC § 501(c)(3).

The organization failed to provide our office with their organizing documents; consequently, they failed the organizational test and cannot be exempt.

Using the logic of Revenue Ruling 76-152, because the artists were directly benefited by the exhibition and sale of their art pieces, the organization served the private interests of those artists whose works were displayed for sale. The organization failed to establish they operated exclusively for tax-exempt purposes; consequently, they failed the operational test and cannot be exempt.

The organization failed the organizational test and the operational test; therefore, the organization's tax-exempt status should be revoked effective November 1, 20XX.

CONCLUSION:

Based on the foregoing reasons, it is the IRS's position that the organization failed to establish that it meets the organizational test and operational test as required IRC §§ 501(c)(3) for it to be exempt from federal income tax under IRC § 501(c)(3). Accordingly, the organization's exempt status is revoked effective November 1, 20XX.

Form 1120, *U.S. Corporation Income Tax Return*, should be filed for the tax periods after November 1, 20XX.